

## An Bord Pleanála



## Inspector's Report

**Appeal Reference No:** 06D.246758

**Development:** Permission sought for the retention of a family flat ancillary to house omitting the link corridor conditioned in permission reg. no. D14B/0299 at 1 Wilson Crescent, Mount Merrion, Co. Dublin.

### Planning Application

Planning Authority: Dun Laoghaire- Rathdown County Council  
Planning Authority Reg. Ref.: D16A/0221  
Applicant: Teresa Garvey  
Planning Authority Decision: Refuse permission

### Planning Appeal

Appellant(s): Teresa Garvey  
Type of Appeal: First Party  
Observers: None  
Date of Site Inspection: 16<sup>th</sup> August 2016

**Inspector:** Emer Doyle

## **1.0 SITE LOCATION AND DESCRIPTION**

The appeal site is located at No. 1 Wilson Crescent, Mount Merrion, Co. Dublin. The site is within an established residential area and has a stated area of 0.079 hectares.

The site is a corner site fronting onto a cul de sac serving Wilson Crescent and currently comprises of a detached dormer dwelling. A detached flat roof structure is located adjacent to the boundary with No. 2 Wilson Crescent. This structure was formerly used as a garage which was converted into living accommodation c. 2014. Neither property has private open space to the rear and both properties are served by a shared space between the properties. This space has a small patio area, a garden shed and a clothes line and is very exposed to the public road fronting the cul de sac at this location. There is a newly built block wall separating both properties (wall B' as indicated on appeal documentation) and the detached structure is served by way of a separate access and parking area with a bin storage area to the front of the property adjacent to the newly built boundary wall.

A set of photographs of the site and its environs taken during the course of the site inspection is attached.

## **2.0 DEVELOPMENT PROPOSED**

Permission was granted for the retention and completion of a one bedroom granny flat ancillary to the main house under D14B/0299. Condition No. 3 of this permission requires the construction of a link corridor between both properties within one year of the grant of permission. This link corridor is referred to as a 'hallway/ link' in the condition. Retention permission is now sought to omit the hallway/ link between both properties.

## **3.0 RELEVANT PLANNING HISTORY**

### **PA D14B/0299**

Permission granted for retention and completion of a one bedroom family flat ancillary to the main dwelling. Condition No. 3 is noteworthy as above.

### **ENF97/14**

The planner's report details in full the enforcement history in relation to this case. Enforcement proceedings were initiated in relation to a complaint about the 'granny flat'. An application for the retention and completion of same was granted under PA14A/0299. A site inspection by the Planning Authority in February 2016 noted that the link corridor had not been constructed. The applicant requested a stay on legal proceedings and stated that it was hoped to complete the development by

the end of August 2016. The Planning Authority allowed the applicant an additional 6 months to comply with Condition 3. The current planning application was received by the Planning Authority in April 2016.

#### **4.0 PLANNING AUTHORITY DECISION**

##### **4.1 TECHNICAL REPORTS**

###### **Planning Report**

The planner's report noted that one submission was received. It was noted that the site layout did not reflect the situation on the ground. For the proposal to be considered as a family flat a link must be in place, otherwise the development would contravene Development Plan policy.

###### **Drainage planning**

No objection subject to conditions.

###### **Transportation Section**

No objection subject to conditions.

###### **Irish Water**

No objection subject to conditions. A separate water supply shall be taken from the public watermains to serve the proposed dwelling i.e the applicant shall not be permitted to take a supply from the service pipe serving the adjoining dwelling.

##### **4.2 Planning Authority Decision**

Dun Laoghaire Rathdown County Council issued a notification of decision to refuse permission for two reasons as follows:

1. The omission of the link corridor materially contravenes the requirements of Section 8.2.3.4 (Additional Accommodation in Existing Built-up Areas) (iii) ('Family Member/ Granny' Flat Extension) of the County Development Plan, 2016 – 2022, would set an undesirable precedent for further similar development in the area and would be contrary to the proper planning and sustainable development of the area.
2. The development would contravene materially Condition 3 of planning application reference D14A/0299 and would be contrary to the proper planning and sustainable development of the area.

## **5.0 GROUNDS OF APPEAL**

A first party appeal against the Council's decision was submitted by Teresa Garvey. The grounds of appeal and main points raised in the submission can be summarised as follows:

- Background to development is set out.
- It is considered that due to the site configuration, the proposed corridor link would create a long and impractical corridor which would bisect the relatively limited open space.
- The attention of the Board is drawn to ABP Ref No. PL06D.245665 and D15A/0429. In both cases, the main house and the family flat are physically separated, and permission has been granted for physically separate ancillary family flats, subject to conditions stipulating that the family flats be linked to the main house by title rather than by physical linkages.
- It is considered that the link corridor would have a less preferable visual outcome than the visual impact of two separate buildings.
- Should the Board be minded to grant permission, it might consider a condition requiring the erection of visual screening to screen the private space similar to that in Photo 1 attached to the appeal.
- Photos are attached to appeals of walls B and C. Should the Board be concerned that walls B and C might represent a curtilage defining the ancillary flat as a separate property, in the event that the Board is minded to grant permission, a condition could be included requiring the amendment/ removal of these walls.

## **6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL**

### **6.1 Planning Authority Response**

- The Planning Authority response considers that the development is not consistent with the policy for family flats outlined in Section 8.2.3.4 of the Development Plan. It is more accurately described as an independent self-contained living unit.
- In terms of the history files referred to D14B/405/ PL06D.245665 was an application which sought permission for a separate living unit. The report prepared for PA D15A/0429 states that the subject structure was considered 'acceptable in this very specific instance' having regard to inter alia 'the relatively spacious nature of the site and the prevailing pattern of development at this location.'

### **6.2 Observations**

None.

## 7.0 POLICY CONTEXT

The Dun Laoghaire Rathdown Development Plan 2010 - 2016 is the operative County Development Plan for the area.

### Zoning

The site is located within an area zoned as Objective A 'To protect or improve residential amenity.'

Section 8.2.3.4 (iii) 'Family Member/ Granny' Flat Extension.

A copy of this section of the plan is attached to the report.

## ASSESSMENT

Having examined the file and having visited the site I consider that the main issues in this case relate to:

1. Principle of Proposed Development
2. Compliance with Development Plan Policy
3. Design and Visual Impact of Link Corridor
4. Other Matters

### **Principle of Proposed Development**

The subject site is located within lands zoned 'Objective A' of the operative County Development Plan, which seeks to protect and/or improve residential amenity and where residential development is permitted in principle subject to compliance with the relevant policies, standards and requirements set out in the plan. Accordingly the principle of a family member/ granny flat is acceptable in this area subject to compliance with Development Plan Policy in relation to same.

### **Compliance with Development Plan Policy**

Section 8.2.3.4 sets out the policy for family member/ granny flat extensions. It states that a family or granny flat refers to a temporary subdivision of a single dwelling – often by adding an extension to the dwelling or converting an attached garage... Proposals should be linked with the primary dwelling and capable of being readily consumed back into same.

The Planning Authority point out in their response to the appeal that the development is more accurately designed as an independent self contained living unit and I would tend to agree with this description. As such, it would be subject to stricter development control standards relating to design, private open space, traffic safety, car parking etc.

The unit is occupied by the applicant's son and wife. It has a defined curtilage with a newly built boundary wall which separate it from the main dwelling. To the front of the unit, there is an area for car parking and bin storage. There is no private open space available to the rear of either property and the only private open space is a shared space between both properties. I would not consider this to be a good quality private open space as it located to the front and side of both dwellings and is very exposed to the public road in front of the properties.

As such, I consider that the retention of this unit without the link corridor would materially contravene Development Plan policy for family flats.

### **Design and Visual Impact of Link Corridor**

The two main arguments set out by the applicant in relation to the omission of the link corridor relate to the visual impact of the link corridor and the site configuration. I accept that the site configuration is unusual in that the private open space fronts onto a public road and that the house and flat are separated by a distance of 7.2 metres rather than linked directly to the house. It is submitted that the proposed corridor link would create a long and impractical corridor which would bisect the limited open space in two. I am of the view that it could be very useful for both properties to be linked in order to make it more practical to carry out care needs of relatives if necessary. Under the Development Plan policy it is clear that a 'family member/ granny flat extension' is supposed to be a subsidiary element and not a fully independent dwelling.

In terms of the visual impact, I note that the appeal states that the construction of the link corridor would result in a continuous building frontage visually connecting the house and family flat which will have a less preferable visual outcome than the visual impact of two separate buildings. Having regard to the design and height of the proposed link to two single storey properties, I do not consider that the link would detract from the visual amenities of the area. I consider that it would be beneficial to construct the type of screening illustrated in Photo No. 1 attached to the appeal to provide more privacy in the shared open space.

### **Other Matters**

#### Precedent

The appeal mentions two history cases in relation to permissions for family flats ancillary to the main house which are not physically separate. I note

the Planning Authority response states that structure in D15A/0429 was considered acceptable 'in this very specific instance' having regard to the 'relatively spacious nature of the site and the prevailing pattern of development at this location.' PL06D.245665 was referred to the Board and I note that permission was sought for a separate living unit and the inspector's assessment referred only to the policy for separate living units and not to the policy for granny flats. As such I consider that neither of these cases could be considered as precedents and I would agree with the planner's response to the appeal which states that the development would set an 'extremely undesirable precedent for further similar development.'

### Removal of Walls

The appellant has removed an internal wall 'A' in order to open up the shared private open space located between the main house and has also constructed two internal walls 'B' and 'C' to screen this space from oblique views. The locations of these walls are also shown on documentation submitted with the appeal. I also noted on the site inspection that a bin storage area has been created adjacent to wall B. The appeal states that 'should the Board have concerns that walls 'B' and/or 'C' might represent a curtilage defining the ancillary flat as a separate property, it is respectfully submitted that in the event that the Board might be minded to grant permission, a condition requiring the amendment/ removal of these walls might be amended to such a decision.

In the event that the Board are minded to grant permission, I am of the view that it would be appropriate to attach a condition requiring the removal of walls 'b' and 'c'.

### Appropriate Assessment

Having regard to the nature and scale of the development and proximity to the nearest Natura 2000 site, I am satisfied that the proposed development either individually or in combination with other plans and projects would not be likely to have a significant effect on any designated Natura 2000 site and should not be subject to appropriate assessment.

## **RECOMMENDATION**

Based on the above assessment, I recommend that permission be refused for the proposed development for the reasons and considerations set out below:

## **REASONS AND CONSIDERATIONS**

1. The omission of the link corridor materially contravenes the requirements of Section 8.2.3.4(iii) of the County Development Plan, 2016 – 2022, would set an undesirable precedent for further similar development in the area and would be contrary to the proper planning and sustainable development of the area.
2. The development would materially contravene Condition 3 of planning application reference D14A/0299 and would be contrary to the proper planning and sustainable development of the area.

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Emer Doyle  
Inspector  
7<sup>th</sup> September 2016